Equality and Human Rights Commission

# Minutes of the 96th meeting of the Board of the EHRC

**07 July 2021 (10:00-13:00)**
**Via video conference using WebEx**

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## Attending

**Commissioners**

Baroness Kishwer Falkner (Chairwoman)
Caroline Waters (Deputy Chair)
Suzanne Baxter
Jessica Butcher
Pavita Cooper
David Goodhart
Susan Johnson
Helen Mahy
Lord Bernard Ribeiro
Dr Lesley Sawers
Su-Mei Thompson

**Officers**

Erica Boardman, Acting Director - Communications and Engagement (item 13)

Cath Denholm, Joint Acting Chief Executive

Melanie Field, Joint Acting Chief Executive

Carla Garnelas, Senior Principal – Strategy Hub (item 13)

Joanna Gregson, Senior Principal – Head of Enforcement (item 12)

Julie Jarman, Senior Principal – Strategy Hub (item 13)

Callum MacInnes, Principal – Planning, Performance and Governance

Bill Malloy, Director – Finance, Procurement, Planning, Performance and Governance

Laura Mingins, Principal - Head of Stakeholder Engagement, Communications and Engagement (item 13)

Alan Sharman, Head of Finance (Items 8 & 9)

Luke Taylor, Director – Evidence and Strategy (item 13)

Sarah Whelan, Senior Associate – Corporate Governance

**Guests**

Martyn Jones, Interim Chair - EHRC Wales Committee

Charles Ramsden – Government Equalities Office (GEO) (Recused from item 12)

## 1. Chairwoman's introduction

1.1 The Chairwoman welcomed attendees. Martyn Jones continued to attend as Acting Chair of the Commission's Wales Committee, pending the appointment of a Wales Commissioner. Cath Denholm and Melanie Field attended as Joint Acting Chief Executives.

## 2. Apologies for absence

2.1 Alasdair Henderson, Mark McLane and Alastair Pringle sent apologies.

## 3. Declarations of interest

3.1 No declarations were made additional to those already registered. It was noted that Jessica Butcher, Pavita Cooper, Charles Ramsden and Lord Bernard Ribeiro would be recused from item 12.

## 4. Minutes and correspondence

4.1 The Board approved the minutes of the 13 May, 95th Board meeting (EHRC 96.01), and 27 May Board call (EHRC 96.02) as accurate records of the respective meetings.

4.2 The Chairwoman reminded Commissioners of the email sent to them on 28 May, regarding the allocation of Commissioners to Committees, Working Groups and other roles, and of the paper shared via correspondence on 07 June, seeking approval of the amended People and Workspace Committee's Terms of reference. The Board had approved both of these items in correspondence.

4.3 The Chairwoman advised the Board that the information paper on the Scotland and Wales Committee Progress Update Reports was shared via correspondence on 24 June. The Board were advised to contact Lesley Sawers and Martyn Jones with any comments.

## 5. Actions Arising

5.1 The Board were content with the actions as listed (EHRC 96.03) and agreed that those listed as 'proposed for closure' could be closed and that all others were progressing satisfactorily.

## 6. Committee and Commissioner Working Group (CWG) updates

6.1 **The Scotland Committee** met on 24 June. Lesley Sawers advised the Board that the Committee had fed into the draft strategic plan 22-25 and consultation plans and agreed that its approach, style and language were good. The Committee's input

was summarised within paper EHRC 96.09b. The Board were advised a new Bill to legalise assisted dying will be lodged at the Scottish Parliament and, as such, the Committee were keen to see information on the Commission's position on this. Lesley Sawers advised that she had had positive meetings with political party leaders in Scotland. **Action: Sarah Whelan to contact Alastair MacDonald regarding the Commission's position on assisted dying.**

6.2 **The Wales Committee** met on 25 June. Martyn Jones advised the Board that the Committee had discussed the draft strategic plan 22-25 and consultation plans. The Committee's input was summarised within paper EHRC 96.09b. The Committee specifically voiced the need for the plan to articulate a stronger focus on older people, echoing feedback from Wales' Older People's Commissioner. As Wales has a socio-economic duty, the Committee were also keen that the Commission engaged on its implementation with key Ministers. As acting Chair, Martyn Jones continues to engage with civil society and key stakeholders. He noted that stakeholders remained very keen to work with the Commission. Martyn Jones expressed how pleased he was with the improvement in the internal three nations working processes and the capturing of Committee input and advice to Board.

6.3 **Commission Working Group - Human Rights Monitoring** met on 11 June. Su-Mei Thompson, who joined the working group in June, advised the Board that the working group had reviewed the draft shadow reports for the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and considered the approach to the Universal Periodic Review (UPR) and UN treaty monitoring processes. Su-Mei Thompson takes on the Chair of this working group from Alasdair Henderson in October.

6.4 **Commission Working Group – Is Britain fairer (IBF)** met on 18 May, where David Goodhart took on the Chair from Lesley Sawers. The working group had discussed the Future of Work research report's project brief, which had been approved and is at the procurement stage. It also considered the Rape Victims research report, which is due in autumn, and is being undertaken jointly with the Office of the Victims' Commissioner. It was agreed that the timing of the publication of the IBF report was critical, in both capturing enough data on the impact of the covid-19 pandemic whilst taking into consideration the implications for public bodies in Scotland and Wales setting equality objectives. The working group is considering establishing an expert advisory panel, which may assist in raising the profile of IBF. **Action: Sarah Whelan to contact Simon Gallow and Luke Taylor regarding the publication timings of IBF and when this item should be brought to the Board.**

6.5 **People and Workspaces Committee (P&WC)** last met on 11 May. Caroline Waters thanked the Board for approving the amendment to the Committee's terms of reference regarding membership. There will be a further update to the terms of reference once both the Committee and the Board have agreed on the corporate social and sustainability responsibilities statement. Caroline Waters further thanked the Board for the way forward on the bonus scheme and informed them that this will be rolled out this year and reviewed.

## 7. Chief Executive's report

7.1. Prior to the meeting the Board considered the Chief Executive's report (EHRC 96.04). Susan Johnson asked whether the Executive had heard from the Cabinet Office regarding the next spending review commission, as other arm's length bodies were being asked for their three-year spending plans. The Executive advised that the Commission was expecting this imminently and that they would consider how best engage the Board in the process. **Action: Executive to discuss with the Chairwoman and advise the Corporate Governance and finance teams of the next steps.**

## 8. Audit and Risk Assurance Committee's (ARAC) Chair's report

8.1 Prior to the meeting the Board considered the ARAC Chair's report (EHRC 96.05b) which concluded that the Committee's activities during the year, including constructive challenge and scrutiny of the Executive and provision of advice to the Accounting Officer, were sufficient to provide assurance to the Board that there were effective arrangements in place in relation to audit and risk assurance matters.

8.2 Susan Johnson, ARAC Chair, advised that: Helen Mahy and Suzanne Baxter had provided input into the report; that ARAC were pleased with the high level of attendance and engagement from the Executive and Independent Members; the auditors had approved the accounts without qualification, and that the Committee were working closely with the People and Workspaces Committee (P&WC) in respect of People and Infrastructure risks. ARAC continued to push the Executive for more 'green' ratings for internal audits in the future. **Action: Chairwoman to write a letter of thanks to the Independent members. Graham Wheaton to action.**

8.3 Members congratulated the Committee for all its hard work and were particularly interested in the 'deep-dive' sessions, requesting access to the papers. Susan Johnson provided an overview of the cyber security deep-dive, stressing the need to keep pace with the hostile actors who were continually becoming more sophisticated. She informed the Board that ARAC were assured that the measures in place were robust for an organisation of the Commission's size and nature. **Action: Access to non-confidential ARAC papers to be provided to all Commissioners. Graham Wheaton to action.**

8.4 The Board were reminded that Helen Mahy will become ARAC Chair from January 2022, when Susan Johnson's term comes to an end. Jessica Butcher will join ARAC in October 2021 and Su-Mei in January 2022. Suzanne Baxter stepped down as an ARAC member as of June 2021. The selection of new internal auditors will begin shortly. Commissioners were offered an open invitation to join ARAC meetings.

## 9. Annual Report and Accounts (ARA) and Audit Completion report

9.1 The Board considered and approved the ARA (EHRC 96.05c) and noted the Audit Completion report (EHRC 96.05d). These had both been reviewed by ARAC on 10 June. ARAC had reviewed the 'going concern' statement and were content that there was no risk to the Commission for the next 12 months. The CREPLAS (funds relating to the Commission for Racial Equality Pension and Life Assurance Scheme) issue was ongoing and it was hoped that the Permanent Secretary of the Treasury would shortly sign the required indemnity in order to finalise the matter. Following the Board's approval, it agreed that Alastair Pringle as the Interim Accounting Officer could now sign both the letter of representation and the ARA. **Action: Caroline Waters to be described as Deputy Chair within the section of the ARA describing the P&WC. Graham Wheaton / Alan Sharman to amend. Action: Bill Malloy to inform Alastair Pringle that the Board have approved the ARA and request that he now signs the ARA and letter of representation.**

## 10. Finance report

10.1 Prior to the meeting the Board had considered the first finance report of the financial year (EHRC 96.06). The report provided: a summary of the 2021/22 budget allocations; the Period 2 (May) indicative financial outturn and a summary of current activities to manage financial performance in 2021/22. The Board discussed the new flexible budgeting model in place, allowing sub-delegations to be issued to Directors and Heads of Nations. Whilst members supported the new arrangements, they requested more visibility of the project pipeline in order that they could be assured that unallocated funds would be spent. **Action: Cath Denholm / Bill Malloy to consider how to give the Board assurance through greater visibility of the plans already approved and those in the pipeline.**

## 11. Performance report

11.1 The Board agreed that the format, layout and content of the performance report (EHRC 96.07) had greatly improved. The Board requested:

a) that last year's figures / bench mark data was included to be able to provide a comparator for the stated figures; **Action: Karen Southwood to work with authors of the report to include last year's figures/benchmarks**;

b) consideration of the need for the specific inclusion of staff maternity leave; **Action: Cath Denholm to discuss with Joe Corcos whether there is a case for presenting maternity leave differently;**

c) the Executive consider alternative ways to engage with civil society to produce their own treaty reports. **Action: Melanie Field to discuss with the CWG: HRM Chair (Su-Mei Thompson / Alasdair Henderson) and Secretariat (Camilla Alonzo);**

d) that the assessment of impact against success measures section of the Performance Report should be set out more clearly the monitoring and

assessment of impact going forward. **Action: Karen Southwood to work with the authors of the report;**

e) that a contact point be included within the report to allow Commissioners to seek further information on any specific issues raised within report. **Action: Executive and Corporate Governance Team to agree process to share additional information on specific areas when requested by Commissioners. Action: Callum MacInnes to contact the Policy team to provide more information on the work with North Tyne Combined Authority to interested Commissioners.**

f) consideration of whether or not the increased numbers of staff leaving the organisation was a cause for concern and whether a *warm up recruitment* list should be considered. The Executive advised that: levels were still below UK averages; exit interviews show that given the Commission is a small organisation people often leave for further career development and that the 'places for growth' agenda was also having an impact. **Action: Joe Corcos to consider further via P&WC;** and

g) the bar chart within the legal performance section, which inaccurately presents intersectionality and human rights as protected characteristics, be amended. **Action: Adam Sowerbutts to advise authors on how to present the protected characteristics and other aspects of the legal section of the report and advise the Corporate Governance Team.**

## 12. Conservative party

12.1 Prior to the meeting, Board members who were not recused from this item had reviewed the paper (EHRC 96.08). Once those who were recused from this item had left the meeting, the Board discussed and decided on the next steps the Commission would adopt following the publication of the Conservative and Unionist Party's action plan; which had been developed in response to the independent investigation carried out Professor Swaran Singh, into discrimination within the Conservative and Unionist Party. It was agreed that the Board would be kept informed and consulted throughout the process. **Action: Melanie Field and the legal team to take forward agreed steps and consult with the Chairwoman and the Board.**

## 13. Strategic plan 2022-25 and consultation approach

13.1 Board members had reviewed papers EHRC 96.09; 96.09a and 96.09c ahead of the Board meeting.

13.2 Members agreed the draft Strategic Plan for public consultation and the approach to that consultation, specifically giving thanks to the Strategy Hub and Communications team for their agility in responding to the Board's requested amendments. Members were advised that the Commissioner Reference Group had

inputted into the narrative of the plan and had ensured that the recommendations previously made by the Board on flexibility and better delivery mechanisms had been incorporated.

13.3 Members agreed that any final changes be agreed by the Commissioner Reference Group, with the engagement of the Chairs of the Scotland and Wales Committees.

13.4 Members requested the following further considerations to be incorporated into the plan:

a) Given the difference in approach to previous years, ensure that the Commission has the tools, expertise and resources available to deliver the plan;

b) Re-visit the language in light of the discussion, including emphasising the references to sustainability and amending specific words, i.e. 'ideals' in reference to human rights ideals and 'Struggling', in reference to the ageing population within the health and social care theme;

c) Identify any geographical groupings in the evidence and data throughout the themes;

d) Make explicit reference to an increase in homeworking in the context of the covid-19 pandemic, within the fairness in a changing workplace theme;

e) Consider whether the Social Mobility Commission were better placed to lead on work around cohesive communities, as set out under the fostering good relations theme;

f) Include further reference to racial disparities once the Commission had received the UK Government's response to the Commission on Race and Ethnic Disparities;

g) Within the upholding rights and equality in health and social care theme, ensure that there is evidence around misinformation with regards to the discriminatory barriers and prejudice that stop people from accessing health and social care services, given this was one of the reasons why people didn't access care during the pandemic;

h) As also advised by the Scotland Committee, include more explicit reference to social media and new technology e.g. Online Safety Bill within the artificial intelligence and emerging digital technologies theme;

i) As also advised by the Disability Advisory Committee: include a brief explanation of the Commission's powers in the foreword; making reference to segregation and integration (i.e. within the area of education and within the fairness for young people theme); and include further mention of pay within the fairness in a changing workplace theme.

**13.5 Action: The Strategy Hub and Communications team to revisit plan in light of the Board's advice as set out under 13.4 above, whilst also incorporating Committees' advice and input where able to do so.**

## 14. Any other business

14.1 With no other business being raised, the Chairwoman thanked Board members and staff for their contributions, and drew the formal meeting to a close. The Board would next meet the following day (08 July) for the workshops on the Commission's role as a regulator, how it uses its powers and the Commission's transformation programme.